

104TH CONGRESS
1ST SESSION

H. R. 1049

To amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1995

Mr. LANTOS (for himself, Mr. BROWN of California, Mr. SCHUMER, Mrs. SCHROEDER, Ms. ESHOO, Mr. MILLER of California, Mr. OBERSTAR, Mr. BERMAN, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. OLVER, Ms. VELÁZQUEZ, Ms. WOOLSEY, Mr. FROST, Mr. JOHNSTON of Florida, Mr. SABO, Mr. WYNN, Mr. YATES, Mr. ACKERMAN, Mr. FILNER, Mr. GUTIERREZ, Mr. MANTON, Mr. OWENS, and Mr. VENTO) introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

A BILL

To amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE: REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Young American Workers’ Bill of Rights”.

6 (b) REFERENCE.—Whenever in this Act an amend-
7 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
2 shall be considered to be made to a section or other provi-
3 sion of the Fair Labor Standards Act of 1938.

4 **SEC. 2. REPORTING AND RECORDKEEPING.**

5 (a) CHILD-LABOR LAWS.—Section 12 (29 U.S.C.
6 212) is amended by adding at the end the following new
7 subsection:

8 “(e)(1) The Secretary and the United States Census
9 Bureau shall compile annually data from respective State
10 employment security agencies in all the States (A) on the
11 types of industries and occupations in which children
12 under the age of 18 are employed, and (B) on cases in
13 which it was determined that children were employed in
14 violation of this section.

15 “(2) If a minor in the course of employment suffers
16 death or an injury or illness resulting in lost work time
17 of at least 1 working day, not later than 5 days after the
18 death, injury, or illness, the employer of the minor shall
19 provide to the State agency a written description of the
20 death, injury, or illness.

21 “(3) The Secretary of Health and Human Services,
22 in conjunction with the Secretary of Labor, shall issue an
23 annual report on the status of child labor in the United
24 States and its attendant safety and health hazards.”.

1 **SEC. 3. CERTIFICATES OF EMPLOYMENT.**

2 Section 12 (29 U.S.C. 212), as amended by section
3 2, is further amended by adding at the end the following
4 new subsection:

5 “(f)(1) As used in this subsection:

6 “(A) The term ‘minor’ means an individual who
7 is under the age of 18 and who has not received a
8 high school diploma or its equivalent.

9 “(B) The term ‘parents’ means the biological
10 parents of a minor or other individual standing in
11 loco parentis to a minor.

12 “(2) No employer shall employ a minor unless the
13 minor possesses a valid certificate of employment issued
14 in accordance with this subsection.

15 “(3) The Governor of a State shall designate a State
16 agency to issue certificates of employment to minors in
17 the State. The agency shall make available, on request,
18 a form for the application described in paragraph (4) and
19 shall make available, as part of the certification process,
20 materials describing applicable Federal requirements gov-
21 erning the employment of minors and the minor’s rights
22 under such requirements.

23 “(4) To be eligible to receive a certificate of employ-
24 ment, a minor must submit to the appropriate State agen-
25 cy an application that contains—

26 “(A) the name and address of the minor;

1 “(B) proof of age of the minor;

2 “(C) if the minor is under the age of 18—

3 “(i) a written statement by the parents of
4 the minor that the parents grant consent for
5 employment of the minor;

6 “(ii) written verification from the minor’s
7 school that the minor is meeting at least the
8 minimum school attendance requirements estab-
9 lished by the State and that such employment
10 will not interfere with the schooling of the
11 minor; and

12 “(D) the employer’s name, address, signature;

13 and

14 “(E) with respect to the employment—

15 “(i) a statement on the nature of the work
16 to be performed;

17 “(ii) the daily and weekly hours, and

18 “(iii) the times of day in which the work
19 is to be performed.

20 “(5) On receipt of an application under paragraph
21 (4), a State agency shall issue to the minor—

22 “(A) a certificate of employment, if the require-
23 ments of paragraph (4) are met; or

1 “(B) a statement of the denial of a certificate
2 of employment (including the reasons for the denial),
3 if the requirements of paragraph (4) are not met.

4 “(6) A certificate of employment issued to a minor
5 under this subsection shall be valid for 1 year after the
6 date of issuance of the certificate or for the duration of
7 the permitted employment, whichever is shorter.

8 “(7) A certificate of employment issued to a minor
9 under this subsection shall indicate—

10 “(A) the name, address, and date of birth of
11 the minor;

12 “(B) a minor will not be employed more than
13 3 hours per day or more than 15 hours per week
14 and shall be prohibited from working before 7 a.m.
15 and after 7 p.m. when school is in session if such
16 minor is between 14 and 16 years of age and will
17 not be employed more than 4 hours per school day
18 or more than 20 hours per week and shall be prohib-
19 ited from working before 6 a.m. and after 10 p.m.
20 when school is in session if such minor is between
21 16 and 18 years of age; and

22 “(C) the name, address, and telephone number
23 of the State agency that may be contacted for addi-
24 tional information concerning applicable Federal re-
25 quirements governing the employment of minors.

1 “(8) The State agency shall provide a copy of a cer-
2 tificate of employment issued to a minor under the age
3 of 18 to the parent of the minor who granted consent pur-
4 suant to paragraph (4) and to the local school district
5 where the minor is enrolled.

6 “(9) If an employer employs a minor, not later than
7 14 days after the date of the commencement of employ-
8 ment of the minor, the employer shall provide to the State
9 agency written notice of the name and occupation of the
10 minor and the number of the certificate of employment
11 issued to the minor.

12 “(10) Each employer shall post a copy of the provi-
13 sions of this Act relating to child labor at each premise
14 of a worksite where one or more minors is employed.

15 “(11) A State agency shall report annually to the
16 Secretary concerning certificates of employment issued
17 under this subsection. The agency shall include such infor-
18 mation as the Secretary requires (including information
19 on the number of deaths and injuries of minors reported
20 pursuant to subsection (f)).”.

21 **SEC. 4. REVISIONS OF ORDERS AND REGULATIONS.**

22 (a) ORDERS.—

23 (1) In the administration of the Fair Labor
24 Standards Act of 1938, the Secretary of Labor shall
25 make the following revisions in the Secretary’s child

1 labor orders published in subpart E of part 570 of
2 title 29, Code of Federal Regulations:

3 (A) The exemption provided in Order No.
4 2 (29 C.F.R. 570.52) shall apply to minors who
5 are at least 17 years of age and to driving that
6 is secondary and incidental to the minor's main
7 occupation. Such exemption would be limited to
8 20 percent of the minor's work in any workday
9 and may not exceed 5 percent of the minor's
10 work in any workweek.

11 (B) Order No. 10 (29 C.F.R. 570.61) shall
12 apply with respect to restaurants and fast food
13 establishments. Such order shall prohibit indi-
14 viduals under the age of 18 from cleaning any
15 machinery irrespective of who has disassembled
16 the machinery.

17 (2) In the administration of the Fair Labor
18 Standards Act of 1938, the Secretary of Labor shall
19 find and declare that poultry processing, seafood
20 processing, paper baling, power driven meat slicing,
21 and pesticide handling are occupations that are par-
22 ticularly hazardous for the employment of children
23 between the ages of 16 and 18 for purposes of sec-
24 tion 3(l) of the Fair Labor Standards Act of 1938.

1 (b) CHILD LABOR REGULATIONS.—Under child labor
2 regulation No. 3 (subpart C of 29 C.F.R. 570 et seq.)—

3 (1) individuals under 16 shall be prohibited
4 from making door-to-door sales for profit,

5 (2) individuals under 16 shall be prohibited
6 from using fryers, baking equipment, and cooking
7 equipment in food service establishments, and

8 (3) strike out in section 570.34(b)(5) “(except
9 at soda fountains, lunch counters, snack bars, or
10 cafeteria serving counters)”.

11 **SEC. 5. CRIMINAL PENALTIES FOR CHILD LABOR VIOLA-**
12 **TIONS.**

13 (a) WILLFUL VIOLATIONS THAT CAUSE INJURY OR
14 DEATH.—Section 16 (29 U.S.C. 216) is amended by add-
15 ing at the end the following new subsection:

16 “(f) Any person who willfully violates the provisions
17 of section 12, relating to child labor, or any regulation
18 issued under such section, shall, on conviction be pun-
19 ished—

20 “(1) in the case of a willful violation that
21 causes serious bodily injury to an employee described
22 in section 3(l) but does not cause death to the em-
23 ployee, by a fine in accordance with section 3571 of
24 title 18, United States Code, or by imprisonment for
25 not more than 5 years, or by both, except that if the

1 conviction is for a willful violation committed after
2 a first conviction of the person, the person shall be
3 punished by a fine in accordance with section 3571
4 of such title 18 or by imprisonment for not more
5 than 10 years, or by both; or

6 “(2) in the case of a willful violation that
7 causes death to an employee described in section
8 3(l), by a fine in accordance with section 3571 of
9 such title 18 or by imprisonment for not more than
10 10 years, or by both, except that if the conviction is
11 for a willful violation committed after a first conviction of the person, the person shall be punished by
12 a fine in accordance with section 3571 of such title
13 18 or by imprisonment for not more than 20 years,
14 or by both.”.

16 (b) NO PRIOR OFFENSE PREREQUISITE FOR CHILD
17 LABOR VIOLATION.—The second sentence of section 16(a)
18 is amended by inserting before the period at the end the
19 following: “, except that this sentence shall not apply to
20 a violation of section 12”.

21 **SEC. 6. CIVIL PENALTIES FOR CHILD LABOR VIOLATIONS.**

22 Section 16(e) (29 U.S.C. 216(e)) is amended—

- 23 (1) by redesignating paragraphs (1), (2), and
24 (3) as subparagraphs (A), (B), and (C), respectively;

1 (2) by inserting “(1)” after the subsection des-
2 ignation;

3 (3) by adding at the end the following new
4 paragraphs:

5 “(2) Any person who willfully violates the provisions
6 of section 12, relating to child labor, or any regulation
7 issued under such section, on more than one occasion,
8 shall, on such additional violation, be ineligible—

9 “(A) for any grant, contract, or loan provided
10 by an agency of the United States or by appro-
11 priated funds of the United States, for 5 years after
12 the date of such additional violation;

13 “(B) to pay the training wage authorized by
14 section 6 of the Fair Labor Standards Amendments
15 of 1989 (29 U.S.C. 206 note); or

16 “(C) to employ a minor for a period of 5 years
17 from the date of such violation.”.

18 **SEC. 7. CIVIL ACTIONS FOR CHILD LABOR VIOLATIONS.**

19 Section 16 (29 U.S.C. 216), as amended by section
20 5, is amended by adding at the end the following:

21 “(g) Any employer who violates section 12 shall be
22 liable for such legal or equitable relief as may be appro-
23 priate. An action to recover such relief may be brought
24 against any employer in any Federal or State court of
25 competent jurisdiction by any employee subject to the pro-

1 tections of section 12 or by the employee's survivors. The
2 court in such an action shall, in addition to any other
3 judgment awarded to the plaintiff, allow a reasonable at-
4 torney's fee to be paid by the defendant and costs of the
5 action. If the employee or the employee's survivors obtain
6 a judgment under this subsection and also seek recovery
7 for the same violation through State worker's compensa-
8 tion, this subsection does not preclude a State from choos-
9 ing to offset recovery obtained under this subsection
10 against recovery provided through State worker's com-
11 pensation.''.
12

SEC. 8. COORDINATION.

13 (a) IN GENERAL.—The Secretary of Labor shall es-
14 tablish and encourage closer working relationships among
15 Federal and State agencies having responsibility for en-
16 forcing labor, safety and health, and immigration laws.

17 (b) REFERRALS.—

18 (1) The Secretary of Labor shall establish a re-
19 ferral system under which employees engaged in the
20 enforcement of the Fair Labor Standards Act of
21 1938 and the Occupational Safety and Health Act
22 of 1970 shall—

23 (A) exchange information about suspected
24 violators of the Acts and monitor the results of
25 referrals to each other, and

1 (B) provide basic training to each other's
2 staffs concerning the requirements of such Acts.

3 (2) The Secretary of Labor shall require em-
4 ployees engaged in the enforcement of the Fair
5 Labor Standards Act of 1938 and the Occupational
6 Safety and Health Act of 1970 to establish a
7 referral system with—

8 (A) employees of the Immigration and
9 Naturalization Service engaged in the enforce-
10 ment of the Immigration and Nationality Act,
11 and

12 (B) employees of Departments of Labor of
13 the States engaged in the enforcement of State
14 minimum wage and occupational safety and
15 health laws.

16 The Immigration and Naturalization Service and the
17 State Departments of Labor shall each be encour-
18 aged by the Secretary of Labor to establish informa-
19 tion exchanges and, to the extent practicable, pro-
20 vided training to each other's staffs concerning the
21 requirements of the Acts enforced by the respective
22 agencies.

23 (c) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—
24 The Secretary shall seek information and advice from rep-
25 resentative elements of the private sector and the non-

1 Federal governmental sector with respect to the provisions
2 of the Fair Labor Standards Act of 1938 and correspond-
3 ing regulations as they pertain to the employment of
4 minors.

5 (d) ADVISORY COMMITTEE.—The Secretary shall es-
6 tablish an Advisory Committee for Child Labor to provide
7 overall policy advice on matters referred to in subsection
8 (c). The Committee shall be composed of not less than
9 21 individuals, and shall include representatives of govern-
10 ment, labor, industry, education, agriculture, health pro-
11 fessions, small business, youth, service industries, retail-
12 ers, consumer interests, human rights, child welfare, and
13 the general public. The Committee shall meet quarterly
14 at the call of the Secretary or upon the call of a majority
15 of the Committee, a quorum being present. The Chair-
16 person of the Committee shall be elected by the Committee
17 from among its members. Members of the Committee shall
18 be appointed by the President for a period of 4 years and
19 may be reappointed for one or more additional periods.
20 The Secretary shall make available to the Committee such
21 staff, information, personnel, and administrative services
22 and assistance as it may reasonably require to carry out
23 its activities.

1 **SEC. 9. PUBLICATION OF VIOLATORS.**

2 (a) IN GENERAL.—The Secretary of Labor shall pub-
3 lish and disseminate the names and addresses of each per-
4 son who has willfully violated the provisions of section 12
5 of the Fair Labor Standards Act of 1938 relating to child
6 labor or any regulation under such section and the types
7 of violations committed by such person and shall distribute
8 the publication regionally.

9 (b) NOTICE TO SCHOOL DISTRICTS.—The Secretary
10 shall post and otherwise make available to affected school
11 districts the name of each employer who violates the provi-
12 sions of section 12 of the Fair Labor Standards Act of
13 1938, relating to child labor, or any regulation issued
14 under such section together with a description of the loca-
15 tion and nature of the violation.

16 **SEC. 10. COVERAGE.**

17 The provisions of sections 12 and 16(e) of the Fair
18 Labor Standards Act of 1938 shall apply to employers re-
19 gardless of the annual dollar volume of sales whereby cer-
20 tain enterprises are exempted from coverage under such
21 Act.

22 **SEC. 11. PROTECTION OF MINORS WHO ARE MIGRANT OR**
23 **SEASONAL AGRICULTURAL WORKERS.**

24 (a) DEFINITION OF OPPRESSIVE CHILD LABOR.—
25 The first sentence of section 3(l) (29 U.S.C. 203(l)) is
26 amended—

1 (1) by striking “or” before “(2)”; and

2 (2) by inserting before the semicolon the follow-
3 ing: “, or (3) any employee under the age of 14
4 years is employed by an employer as a migrant agri-
5 cultural worker (as defined in section 3(8) of the Mi-
6 grant and Seasonal Agricultural Protection Act (29
7 U.S.C. 1802(8)) or seasonal agricultural worker (as
8 defined in section 3(10) of such Act)”.

9 (b) EXEMPTIONS.—Section 13 (29 U.S.C. 213) is
10 amended—

11 (1) in subsection (a)(6), by inserting before the
12 semicolon at the end the following: “, except that
13 this paragraph shall not apply to an employee de-
14 scribed in section 3(l)(3)”; and

15 (2) in subsection (c)—

16 (A) in paragraph (1), by striking “Except
17 as provided in paragraph (2) or (4)” and in-
18 serting “Except as provided in paragraph (2),
19 (4), or (5)”; and

20 (B) by adding at the end the following new
21 paragraph:

22 “(5) The provisions of section 12 relating to child
23 labor shall apply to an employee described in section
24 3(l)(3).”.

1 **SEC. 12. REGULATIONS.**

2 The Secretary of Labor shall issue such regulations
3 as are necessary to carry out this Act and the amendments
4 made by this Act.

5 **SEC. 13. AUTHORIZATION.**

6 There is authorized to be appropriated to the Sec-
7 retary of Labor such sums as may be necessary for the
8 additional costs resulting from the amendments made by
9 sections 2 and 5.

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